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UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF  
CALIFORNIA

CYRUS SANAI, an individual

Plaintiff,

vs.

LEONDRA KRUGER, an individual,  
sued in her individual and official  
capacities; JOSHUA P. GROBAN, an  
individual sued in his individual and  
official capacities; MARTIN J.  
JENKINS, an individual sued in his  
individual and official capacities; KELLI  
M. EVANS, an individual sued in her  
individual and official capacities;  
CAROL A. CORRIGAN, an individual  
sued in her individual and official  
capacities; GOODWIN H. LIU, an  
individual sued in his individual and  
official capacities, PATRICIA  
GUERRERO, an individual sued in her  
individual and official capacities and  
DOES 1 through 10, sued in their  
individual and official capacities  
inclusive,

Defendants.

) Case No.:

) **COMPLAINT FOR:**

) (1) RELIEF UNDER 42 U.S.C. §1983;  
) (2) RELIEF UNDER EX PARTE YOUNG  
) (3) DECLARATORY JUDGMENT.

) JURY DEMAND

Plaintiff Cyrus Sanai hereby alleges as follows:

**JURISDICTION**

1. This Court has jurisdiction pursuant to 28 USC §1331. Venue is proper in this district and Division because the defendants' place of work is within this district.

**THE PARTIES**

2. Plaintiff, CYRUS SANAI ("Sanai"), is an attorney admitted to practice in California and various federal courts who resides in the County of Los Angeles, State of California.

3. Defendant, LEONDRA KRUGER, ("Kruger") is a justice of the California Supreme Court. She has an undisclosed relationship with disgraced California lawyer, Thomas Girardi ("Girardi") who for decades was the judicial king-maker in California by virtue of his extraordinary monetary contributions to California's Democratic political leadership.

4. Defendant, JOSHUA P. GROBAN ("Groban"), is a justice of the California Supreme Court. He was appointed to the California Supreme Court after acting as the "Senior Advisor to Governor Jerry Brown and advised the governor on judicial appointments." He claims that he "advised the governor on the appointment of over 600 judges, or roughly one out of every three judges in the state. He received numerous awards from bar groups and other legal organizations for his work on judicial appointments." In this capacity, Groban was the primary tool of Girardi in ensuring that only those judges and Justices acceptable to Girardi were appointed by Brown.

1           5. Defendant, MARTIN J. JENKINS (“Jenkins”), is a justice of the  
2 California Supreme Court. Previously, he served as Senior Judicial Appointments  
3 Advisor to Governor Newsom. In this capacity, Jenkins was the primary tool of  
4 Girardi in ensuring that only those judges and Justices acceptable to Girardi were  
5 appointed by Brown.

6           6. Defendant, KELLI M. EVANS (“Evans”) is a justice of the California  
7 Supreme Court. Previously, she served as Chief Deputy Legal Affairs Secretary  
8 Advisor to Governor Newsom. In this capacity, Evans assisted Girardi in ensuring  
9 that only those judges and Justices acceptable to Girardi was appointed by Brown;  
10 she also worked in the State Bar at the time that it was under the control of Girardi  
11 and his puppet, former State Senator Joseph Dunn.

12           6. Defendant, CAROL A. CORRIGAN (“Corrigan”), is a justice of the  
13 California Supreme Court.

14           7. Defendant, GOODWIN H. LIU (“Liu”), is a justice of the California  
15 Supreme Court.

16           8. Defendant, PATRICIA GUERRERO (“Guerrero”), is chief justice of the  
17 California Supreme Court.

18           9. DOES 1 to 10 are persons whose identity, role and capacity in the  
19 wrongs committed against Plaintiff are currently unknown.

20  
21           **COMMON ALLEGATIONS AS TO FACIAL UNCONSTITUTIONALITY**  
22           **OF CALIFORNIA LAW**

23           10. For more than a decade, Thomas Girardi and his firm Girardi & Keese  
24 looted millions of dollars from his clients, who were often members of class that has  
25 been certified in state and federal court. Girardi’s criminal conduct was often  
26 conducted in cooperation with other law firms that worked with him pursuant to  
27 association agreements, whereby Girardi lent his name, prestige and corrupt judicial  
28 relationships to other firms.

1           11. Girardi's misconduct did not go unnoticed by his clients, who filed  
2 lawsuits and bar complaints against him and his firm. However, Girardi was  
3 invulnerable because he had corrupted both sides of the State Bar of California, as  
4 well as the California Supreme Court. *See* H. Ryan, M. Hamilton, "Vegas Parties,  
5 celebrities and boozy lunches: How legal titan Tom Girardi seduced the State Bar",  
6 *Los Angeles Times*, March 6, 2021. Girardi played a key role in getting appointments  
7 to the federal courts, state courts, and State Bar. M. Hamilton, H. Ryan, "Real  
8 Housewives' attorney Tom Girardi used cash and clout to forge powerful political  
9 connections", *Los Angeles Times*, March 9, 2021. On the State Bar prosecutorial side,  
10 Girardi had installed a mole, Tom Layton, who also served as a political fixer. Thus  
11 none of complaints by his clients ever lead to any action until late 2019, when a  
12 series of federal court judges began to take actions against Girardi and his firm in  
13 class action cases.

14           12. While the corruption of a series of Bar Chief Trial Counsels has been  
15 explored in a series of articles in the *Los Angeles Times*, Girardi's influence in the  
16 judiciary has not received the same scrutiny. Girardi was the undisputed king-  
17 maker for persons seeking to be appointed to the California state judiciary. Girardi  
18 assisted in moving appointments forward for state and federal judges, and State Bar  
19 Court judges, as well as forging strong personal relationships with many. H. Ryan,  
20 M. Hamilton, "Tom Girardi gave millions to Democratic politicians. Was the money  
21 stolen from clients?", *Los Angeles Times*, August 4, 2022 (discussing how Girardi  
22 "poured millions into local, state and national races personally and lined up  
23 additional donations from his wife, "Real Housewives of Beverly Hills" star Erika; the  
24 employees of his law firm; and the multitude of California trial lawyers who did  
25 business with him — or hoped to"); *see also* H. Keene, "Gavin Newsom has  
26 Longstanding Ties to Dem Power Player Facing Lawsuits, Investigations", *Fox News*,  
27 June 22, 2021 at [www.foxnews.com/politics/gavin-newsom-ties-tom-girardi-lawsuit](http://www.foxnews.com/politics/gavin-newsom-ties-tom-girardi-lawsuit).  
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1 Girardi had close personal relationships with certain judges; so, for example and  
2 without limitation, in the case of former District Judge Tevrizian, he was a life-long  
3 friend; in the case of California Court of Appeal Justice Tricia Bigelow, he was her  
4 lover; and in the case of former LA Superior Court Judge Daniel J. Buckley, he was  
5 Buckley's legal idol. *See* K. Reich, "Judges' Role in Cruise Sponsored by Lawyer's  
6 Group Raises Questions", *Los Angeles Times*, October 6, 1997 at  
7 [www.latimes.com/archives/la-xpm-1997-oct-06-me-39832-story.html](http://www.latimes.com/archives/la-xpm-1997-oct-06-me-39832-story.html); H. Ryan, M.  
8 Hamilton, "Erika Jayne Under Fire After Alleging Judge's Involvement with Tom  
9 Girardi" *Los Angeles Times*, December 22, 2020; J. Kloczko, "Dating Tom: My Lunch  
10 dates with Famous Lawyer Guy Tom Girardi," *The Debaser*, May 9, 2021 at  
11 [debaser.substack.com/p/lunch-with-tom?s=r](http://debaser.substack.com/p/lunch-with-tom?s=r) ("Tom looked across the room and saw  
12 Daniel Buckley, who was the assistant presiding judge of Los Angeles County  
13 Superior Court. What happened next was amazing. He pointed at the judge, wagged  
14 his finger "come here," and the judge ran up to Girardi like a groupie. I was  
15 introduced to him, and a few weeks later we had lunch. Tom hooked it up."); H.  
16 Ryan, M. Hamilton, "Erika Jayne Under Fire After Alleging Judge's Involvement  
17 with Tom Girardi" *Los Angeles Times*, December 22, 2020; H. Ryan, M. Hamilton, "A  
18 Judge's Affair with Tom Girardi and a \$300000 Wire", *Los Angeles Times*, August  
19 31, 2022 (discussing Second Appellate District Judge Tricia Bigelow's adulterous  
20 affair with Girardi and the gifts and apparent bribes paid to her with stolen money  
21 from his clients).

22 13. Girardi obtained this power through money stolen from his clients, who  
23 he liberally contributed to Democratic politicians such as former Governors Jerry  
24 Brown and current Governor Gavin Newsom as well as the all of the rising stars at  
25 the state and local levels. As a result, Brown and Newsom regularly appointed his  
26 hand-picked candidates, who were often informed of their appointments at dinners at  
27 Girardi's home attended by the governors. Defendants Groban and Jenkins were  
28 charged with accepting and evaluating Girardi's favored candidates, and were

1 instrumental in Girardi's retention of power within California's legal system due to  
2 their kow-towing to Girardi's candidate choices. Even those appointees to state  
3 judicial positions who were not selected by Girardi had to obtain his approval to  
4 advance. All of the Defendants except Guerrero were vetted by Girardi; Justices  
5 Kruger, Groban and Jenkins were Girardi's first choice for the positions, in the cases  
6 of Groban and Jenkins due to their close personal and professional relationships with  
7 Girardi.

8         14. While Girardi was corrupting the State Bar, the Chief Trial Counsels,  
9 all of whom were under his control from 2009 until the collapse of his firm, and the  
10 approximately fifty percent of the State Bar Court judges who were influenced by  
11 him, were consistently more harsh and aggressive towards defendants who were not  
12 Girardi or under his protection. This phenomenon of compensating bias of the  
13 judicial branch was recognized by the United States Supreme Court in *Bracy v.*  
14 *Gramley* (1997) 520 U.S. 899. In *Gacho v. Wills*, No. 19-3343 (7th Cir. February 8,  
15 2021), one of the many cases involving persons victimized by the corrupt judge in  
16 *Bracy*, the Seventh Circuit held that a party need not demonstrate actual bias, but  
17 instead may demonstrate an unconstitutional risk of bias, which is automatically met  
18 when the judicial branch has been corrupted.

19         15. The California State Bar is part of the judicial branch. See Judicial  
20 Council, "State Bar of California" at [www.courts.ca.gov/3016.htm](http://www.courts.ca.gov/3016.htm) ("The California  
21 State Bar Court acts as the administrative arm of the California Supreme Court in  
22 the adjudication of disciplinary and regulatory matters involving California  
23 attorneys."). Likewise, the Chief Trial Counsel and her deputies are members of the  
24 Judicial Branch. See *Hirsh v. Justice of Supreme Court of California* (1995) 67 F.3d  
25 708, 715 (holding that California state bar prosecutors are protected by quasi-judicial  
26 immunity). Prosecutors appointed by judicial branch must be disinterested. *Young*  
27 *v. U.S. ex rel Vuitton et Fils*, 481 U.S. 787 (1987).  
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1           16. Under *Bracy*, the United States Supreme Court held that a party is  
2 entitled to demand discovery and disclosure from the corrupted judicial officials and  
3 institutions. However, the California State Bar has refused to make these  
4 disclosures and indeed is currently fighting a mandamus proceeding before the  
5 California Supreme Court brought by the Los Angeles Times seeking disclosure of  
6 the many files related to complaints against Girardi. *Los Angeles Times*  
7 *Communications LLC v. State Bar of California (Thomas v. Girardi)*, S269401.

8           17. On the State Bar Court side of the State Bar, California's judicial ethics  
9 rules apply to State Bar Court judges. See Cal. Code Jud. Ethics, Canon 6(A) ("...a  
10 judge of the State Bar Court...is a judge within the meaning of this code"). Canon  
11 3(E)(2) of the California Code of Judicial Ethics provides that a "judge shall disclose  
12 information that is reasonably relevant to the question of disqualification under Code  
13 of Civil Procedure section 170.1, even if the judge believes there is no actual basis for  
14 disqualification." Cal. Code Jud. Ethics, Canon 3(E)(2). Disqualification of a State  
15 Bar Court judge is available under Code Civ. Proc. §170.1. This restricts recusal of a  
16 California State Bar Court judge to California state law grounds only.

17           18. State Bar Court judges are appointed by both the California Supreme  
18 Court and the California Legislature. Girardi's preferred candidates constitute  
19 approximately half of the nine Hearing Department and Review Department State  
20 Bar Court judges. However, the exact circumstances and relationships between  
21 Girardi and the State Bar Court judges is a secret, because the judges of the Hearing  
22 Department and Review Department refuse to disclose their individual relationships  
23 with Girardi, his firm, and the lawyers who worked with and for him and the Review  
24 Department judges will not order any Hearing Department judge to disclose their  
25 relationship with Girardi.

26           19. The refusal of the State Bar Court to require disclosure is approved by  
27 the State Bar Board of Trustees and the California Supreme Court, due to its desire  
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1 to avoid public scrutiny of the process by which State Bar Court judges have been  
 2 appointed and who has influence over the process, and because a majority of justices  
 3 do not want their relationships with Girardi publicly disclosed and examined. Indeed,  
 4 to ensure that the same policy of proclaiming transparency while taking every step to  
 5 conceal the State Bar's corruption is uninterrupted, the State Bar took the  
 6 unprecedented step of reappointing the State Bar's Chairman of the Board of  
 7 Trustees, Ruben Duran, to a second term.

8         20. The refusal of the California Supreme Court to enforce requests for  
 9 recusal under federal constitutional rules against State Bar Court Judges is  
 10 consistent with the law regarding recusal by California Supreme Court justices.  
 11 There is no procedural mechanism for a party to request recusal of a California Court  
 12 of Appeal or Supreme Court justice. *Hirsh v. Justices of Supreme Court of California*,  
 13 67 F.3d 708, 712 (9th Cir.1995) (acknowledging the "absence of a mandatory  
 14 statutory recusal mechanism applicable to justices of the California Supreme Court").  
 15 Any attempt to move for the recusal of a Court of Appeal or California Supreme  
 16 Court Justice will be stricken under *Kaufman v. Court of Appeal*, 31 Cal.3d 933  
 17 (1982), and/or *First Western Dev. Corp. v. Sup. Ct.*, 212 Cal.App.3d 860, 867 (1989).  
 18 Accordingly, there is no mechanism to request a California Court of Appeal or  
 19 Supreme Court justice under federal constitutional grounds of any kind, and there is  
 20 no other mechanism to raise federal constitutional objections based on the right to an  
 21 impartial adjudicator, in fact and in appearance, under federal law.

22         21. Where the judicial branch has been corrupted, a due process violation may  
 23 arise whereby the judicial branch officials treat the persons who are not beneficiaries  
 24 of the corruption more harshly in order to conceal or distract from their leniency to  
 25 persons who have corruptly influenced the judicial branch. *Bracy v. Gramley*, 520  
 26 U.S. 899 (1997). In *Bracy*, the United States Supreme Court held that where such  
 27 corruption has been established as likely, a party is entitled to discovery to determine  
 28



1 the scope and effect of such corruption. In *Gacho v. Wills*, 986 F.3d 1067 (7th Cir.  
2 2021), one of the many cases involving persons victimized by the corrupt judge in  
3 *Bracy*, the Seventh Circuit held that a party need not demonstrate actual bias, but  
4 instead may demonstrate an unconstitutional risk of bias, which is automatically met  
5 when the judicial branch has been corrupted.

6  
7 22. However, California law neither recognizes *Bracy* and *Gacho* claims against  
8 members of the judicial branch, nor will it allow evidence necessary to show a *Bracy*  
9 and *Gacho* violation to be introduced. That's because California case law does not  
10 permit a party to enter a trial court's rulings or in-court statements as evidence to  
11 prove bias under either state or federal law. See *Roitz v. Coldwell Banker*  
12 *Residential Brokerage Co.*, 62 Cal.App.4th 716, 724 (1998); *Jack Farenbaugh & Son*  
13 *v. Belmont Construction, Inc.*, 194 Cal. App.3d 1023, 1031 (1987); *People v. Guerra*,  
14 37 Cal.4th 1067, 1112 (2006). In *Guerra*, the California Supreme Court rejected  
15 judicial bias claims made under state and federal law, stating that "Defendant has a  
16 due process right to an impartial trial judge under the state and federal  
17 Constitutions....a trial court's numerous rulings against a party—even when  
18 erroneous—do not establish a charge of judicial bias". *Id.* To establish a claim of  
19 absence of impartiality under *Bracy* and *Gacho*, a litigant must do exactly what  
20 *Guerra* prohibits, pointing to the adverse rulings as evidence, along with corruption  
21 by third parties. Federal law is the opposite of California, and a judge's rulings and  
22 statements in courts are admissible to show bias, even without other evidence.  
23 *Liteky v. United States* 510 U.S. 540, 551 (1994). In *Liteky* the United States  
24 Supreme Court recognized that the statements and orders of a judge could, on their  
own, provide a proper basis for recusal:

25 It is wrong in theory, though it may not be too far off the mark as a  
26 practical matter, to suggest, as many opinions have, that "extrajudicial  
27 source" is the only basis for establishing disqualifying bias or prejudice.  
28 It is the only common basis, but not the exclusive one, since it is not the  
exclusive reason a predisposition can be wrongful or inappropriate. A  
favorable or unfavorable predisposition can also deserve to be

1 characterized as "bias" or "prejudice" because, even though it springs  
2 from the facts adduced or the events occurring at trial, it is so extreme  
3 as to display clear inability to render fair judgment. (That explains what  
4 some courts have called the "pervasive bias" exception to the  
5 "extrajudicial source" doctrine. *See, e. g., Davis v. Board of School*  
*Comm'rs of Mobile County*, 517 F.2d 1044, 1051 (CA5 1975), *cert.*  
*denied*, 425 U. S. 944 (1976).)

6 *Id.*

7 23. The due process rights of respondents in State Bar proceedings are also  
8 crippled by the absence of effective discovery proceedings, over and above the refusal  
9 to recognize *Bracy, supra*. Beginning in 2009, the State Bar Board of Trustees (led  
10 by a Girardi Keese partner) began to rewrite the State Bar Court Rules of Procedures  
11 to eliminate long-standing rights of due process, including the right to meaningful  
12 discovery. This roll-back was acknowledged by State Bar Court counsel in public  
13 documentation published in 2017; thus while the State Bar Court addresses interests  
14 that deserve the highest level of due process protection short of criminal  
15 incarceration, a respondent has fewer due process rights than in a criminal and civil  
16 case.

17 24. At the appellate level, there is no mechanism to investigate whether a  
18 Court of Appeal or Supreme Court justice has a conflict of interest. Indeed, where a  
19 Supreme Court justice, Justice Kruger, has recused herself in a case involving  
20 Girardi, she and the other Defendants have denied a motion to disclose the reason for  
21 recusal or her relationship with Girardi. Each of the Defendants has a financial  
22 interest in keeping their relationships with Girardi and members of his Cabal a  
23 secret, because any connection to Girardi's corruption could lead to investigation by  
24 the California Legislature, the California Judicial Performance Commission, removal  
25 by the latter, or losing a judicial retention election.  
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**COMMON ALLEGATIONS AS TO AS APPLIED  
UNCONSTITUTIONALITY OF CALIFORNIA LAW**

25. Between 2005 and 2010 Plaintiff Cyrus Sanai caused a state court judge, Elizabeth Grimes, to be removed from a case by the Court of Appeal for bias; in response, through her attorney Frederick Bennett, she filed two bar complaints against Sanai, both of which were ignored.

26. While this was ongoing, Sanai humiliated a federal appellate judge, Alex Kozinski, by filing a meritorious misconduct complaint against him; discovering his pornography server through which he beamed smut into his chambers and the chambers of his best friend on the Ninth Circuit, Stephen Reinhardt; and in 2010 opposed the nomination of Grimes to the Court of Appeal, forcing her attorney, Frederick Bennett, to falsely deny to the Commission on Judicial Appointments that he had filed a bar complaint on her behalf.

27. After Kozinski had his wrist slapped, the Ninth Circuit Judicial Council in 2010 issued a censure of Sanai for his efforts to bring both Kozinski and his protectors in the Court to account. *See In Re Complaint of Judicial Misconduct* (9<sup>th</sup> Cir. 2010) 623 F. 3d 1101. It also sought to disbar Sanai, but its efforts ran aground because the Council would not provide documents or witnesses to the Chief Trial Counsel and her lawyers (collectively, the “Office of Chief Trial Counsel” or “OCTC”). Acting through former Circuit Executive Catterson, former Chief Counsel Jayne Kim approved a Notice of Disciplinary Charges in *In Re Sanai*, 10-O-09221 and 12-O-10457 that revived dismissed charges of misconduct and sought to punish Sanai for his blowing the whistle on Kozinski.

28. During the pre-trial process in this case, the OCTC handed over documents demonstrating that Bennett had mislead the Commission on Judicial Appointments, but refused to hand over hundreds of potentially exculpatory

1 documents. Sanai sought pre-trial deposition subpoenas and discovery from the  
2 OCTC, all of which was denied by State Bar Court Judge Miles.

3         29. At trial, the OCTC's case collapsed. In two separate orders, Judge Miles  
4 dismissed eight out of nine charges. The charges brought regarding Sanai's  
5 interactions with Kozinski and the Ninth Circuit Judicial Council were dismissed for  
6 lack of evidence. One count arising from the *Sanai v. Saltz* case over which Grimes  
7 presided was dismissed after a Superior Court clerk recanted her testimony and  
8 Judge Miles found it had been influenced by the Grimes' successor and opposing  
9 counsel, Michael Saltz. Sanai also introduced evidence that Saltz had ex parte back  
10 channel communications with the Superior Court in the case, Judge Terry Green.  
11 Judge Miles explicitly found that the Court clerk had been jointly influenced by  
12 coordinated pre-hearing ex parte witness contact by Terry Green. All but one of the  
13 remaining charges were dismissed as an issue and evidence sanction for the refusal  
14 of the State Bar to disclose records which Sanai subpoenaed.

15         30. State Bar Court Judge Miles then abated the case and it was stayed for  
16 four years. In the interim, Kozinski and his friend Reinhardt's sexual harassment  
17 (in person and through Kozinski's server) were publicly exposed.

18         31. Judge Miles retired and was replaced by State Bar Court Judge  
19 Valenzuela. Judge Valenzuela was placed on the State Bar Court thanks to the  
20 machinations of Girardi and his cabal. She was selected because she agreed with the  
21 Girardi philosophy of litigation, which is that counsel's outside relationships with  
22 judges and tribunal members should be the most important criterion for litigation  
23 and legal success. Her relationship with Girardi and his cabal are such that she is  
24 hostile against any respondent who claims that improper judge and lawyer  
25 relationships are valid defenses in state bar disciplinary cases and merit discovery  
26 and exposure, because such relationships were the key to Girardi's success as a  
27 lawyer, while his relationships with State Bar Trustees, investigators, and  
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1 prosecutors gave him free reign to steal additional moneys from his clients. Because  
2 of Judge Valenzuela's full acceptance of the Girardi principles of litigation, she was  
3 violently and strongly prejudiced against Plaintiff, who has already demonstrated the  
4 kind of judge/opposing counsel collusion before Judge Miles that Valenzuela was  
5 placed on the State Bar Court to validate and protect.

6 32. After Judge Valenzuela restarted the case, Sanai sought to enforce trial  
7 subpoenas served in 2014 and 2015 and conduct additional third-party deposition  
8 subpoenas. Valenzuela quashed the trial subpoenas (including subpoenas as to  
9 which no motion to quash had been made), denied all requests to compel witnesses to  
10 appear or to produce documents, and issued a protective order barring Sanai from  
11 issuing future trial subpoenas against judges without her permission. Sanai filed  
12 multiple petitions for interlocutory review, all of which were denied on August 3,  
13 2020.

14 33. However, the trial did not resume. Sanai was stricken by Grave's  
15 Disease, aka Thyroid Eye Disease, and his vision was useless beyond five feet or so.  
16 The case was abated while Sanai underwent treatment, which restored about 95% of  
17 his eyesight by July of this year.

18 34. At the status conference on July 19, 2021 Judge Valenzuela was  
19 informally asked by Sanai to explain why she recused herself from the State Bar  
20 Court case against Thomas Girardi, *In Re Girardi*. See Order, *In Re Girardi*, SBC-  
21 21-O-30192, filed April 1, 2021. Sanai explained how the Los Angeles Times  
22 revelations had created an issue of due process under *Bracy, supra*. She refused to  
23 answer. Judge Valenzuela stated that she would not consider any motion to recuse  
24 or for other relief so long as the case continued to be abated. Because the grounds for  
25 abatement no longer applied, Sanai stipulated to lifting the abatement.

26 35. Over Sanai's objection, the trial date was set for October 5, 2021. State  
27 Bar Court Judge Valenzuela's order references the potential filing of a motion to  
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1 recuse her. *Id.* at 49. Sanai in fact mentioned both a motion to recuse or to disclose,  
2 and after careful consideration he decided that a motion to recuse was required first,  
3 because there was the theoretical possibility that Judge Valenzuela recused herself  
4 because she had interests that would make a reasonable person suspect she was  
5 biased against Girardi.

6 36. Sanai filed a motion for disclosure and August 13, 2021 and a motion to  
7 continue the trial. Judge Valenzuela denied both more than a month later, on  
8 September 20, 2021. She contended that she was only required to disclose  
9 “conflicts of interest” and not other grounds for recusal recognized under the law.  
10 The State Bar Review Department, the appellate department of the State Bar Court  
11 denied a petition for interlocutory review on September 24, 2021. The California  
12 Supreme Court denied a petition for interlocutory review on September 29, 2021.  
13 Justice Kruger did not recuse herself from the proceeding involving the denial of  
14 review, even though the issue presented to the Court involved disclosure by a  
15 member of the judicial branch of their relationship with Girardi, and Kruger has a  
16 financial interest in determination of the legal question of disclosure.

17 37. The rulings of Judge Valenzuela and the Review Department on these  
18 issues are final; the order of the California Supreme Court denying interlocutory  
19 review are not final.

20 38. Trial was set for October 5, 2021. Sanai issued trial subpoenas against  
21 Judge Valenzuela, and Michael Saltz, all of which Judge Valenzuela quashed, except  
22 for the subpoena of Michael Saltz, which was not able to be served. The trial then  
23 occurred. Sanai made the best defense he could.

24 39. On January 4, 2022 Judge Valenzuela issued a Decision in this case  
25 imposing a 60 day suspension.

26 40. On January 5, 2022 Sanai filed a motion to extend time to file a motion  
27 for new trial under Rules Proc. of State Bar, rule 5.114 and a motion for  
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1 reconsideration under Rules Proc. of State Bar, rule 5.115 by an additional 30 days  
2 as permitted under Rules Proc. of State Bar, rule 5.29(A), along with providing a copy  
3 of the transcript of the trial before Judge Valenzuela and a copy of the final Exhibit  
4 List prepared by the Clerk. The time for obtaining transcripts from the effectuation  
5 department is currently two weeks plus time for mailing. Accordingly, it would have  
6 been impossible for Sanai to separately pay for an obtain a transcript and make the  
7 15 day deadline.

8 41. The OCTC opposed the motion without argument on January 10, 2022.  
9 Sanai filed a reply on January 11, 2022.

10 42. On January 12, 2022 an order denying the motion was served by email.  
11 In addition, Judge Valenzuela provided a “clarification” of the record that raised  
12 more new issues. She stated that the proper way to obtain the transcript was to pay  
13 for it, which as noted above, would not result in the transcript arriving in time to  
14 prepare and file motions within 15 days. She refused to provide a copy of the Clerk’s  
15 Exhibit list. Sanai filed a Petition for Interlocutory Review on February 1, 2022,  
16 which was rejected on technicality. Sanai filed a motion for leave to file the petition  
17 for interlocutory review. The motion was granted, but the petition was denied on  
18 February 11, 2022.

19 43. Sanai filed a motion to re-open the record on March 4, 2022. The motion  
20 was denied on March 16, 2022. On March 18, 2022 Sanai filed a timely request for  
21 review.

22 44. The due date for Sanai’s opening brief before the Review Department  
23 was set by an order dated June 27, 2022 as follows:

24 On June 7, 2022, respondent filed a motion to extend time  
25 to file his opening brief to August 8, 2022. On June 9, 2022, we  
26 granted respondent's motion in part, extending the deadline to  
27 file his opening brief to July 1, 2022. Our order indicated that no  
28 additional extensions were contemplated.

On June 24, 2022, respondent filed a motion for two separate 30-  
day extensions of time to file his opening brief, arguing that he intends



1 to file a motion to remand. We deny respondent's motion for failure to  
2 show good cause for the extensions. (Rules Proc. of State Bar, rule  
5.152.1.) His brief remains due on July 1, 2022.

3 Order of June 27, 2022.

4 45. Sanai did not file his opening brief with the Review Department on July  
5 1, 2022. Because no order had been entered eliminating the default notice period,  
6 the earliest a valid default notice could have been served by email would have been  
7 the next court day, July 5, 2022, and the drop-dead deadline would have been July  
8 12, 2022; if printed and served by mail, the deadline would have been one day earlier,  
9 on July 11, 2022.

10 46. Nonetheless, on July 8, 2022 at 2:45 pm, Sanai received a notice of  
11 dismissal executed by the Review Department, stating that after proper giving of the  
12 Clerk's notice, he had failed to file his opening brief, so the appellate proceedings  
13 were dismissed with prejudice. In fact, no such notice was ever received by Sanai;  
14 the docket shows that no notice was ever given, and the Clerk, when contacted by  
15 email and telephone first refused to send a copy of the alleged notice when he  
16 demanded it, and then claimed that issuing a notice was not the Review  
17 Department's "protocol". There are two problems with this contention. First, it is not  
18 true; the Review Department's protocol is to provide such notices. The second  
19 problem is that the dismissal order makes an explicit finding that such notice was  
20 given: "As Cyrus Mark Sanai failed to file an opening brief after having been notified  
21 by the Clerk in accordance with rule 5.152(D) of the Rules of Procedure of the State  
22 Bar", which notice must state "that the brief must be filed within five days after the  
23 Clerk's notice is served or (1) The request for review will be dismissed with prejudice;  
24 and (2) If no other party requested review, the hearing judge's decision will become  
25 the State Bar Court's final decision." The requirements of what must be in the notice  
26 are clear and the required notice was not given.

27 47. Sanai filed a timely motion for reconsideration with the Review  
28 Department on July 27, 2022. This motion fully exhausted Sanai's administrative



1 remedies before the State Bar Court. It was denied by the order dated August 11,  
2 2022; accordingly, the original order dismissing the request for review based on the  
3 failure to file an opening brief after a Clerk's order of default is still in effect and the  
4 official grounds for dismissal of the request for review is based on a manifestly false  
5 finding of procedural fact.

6 48. The request for reconsideration was denied because, according to the  
7 Review Department, Sanai "has failed to present new facts, circumstances, or law  
8 that supports his request for reconsideration, it is denied for lack of good cause."  
9 However, all of the "facts, circumstances or law" in the motion were new, because the  
10 question of dismissal was not litigated, and could not be litigated, prior to the  
11 dismissal actually occurring. The Review Department Acting Presiding Judge  
12 therefore denied the motion for reconsideration on grounds that were manifestly  
13 false—all of the argument, facts, circumstances and law in his motion were new.

14 49. Sanai filed a timely request for review with the California Supreme  
15 Court of his disciplinary case, which is currently under review with the California  
16 Supreme Court. *See Sanai on Discipline*, S276140. Since the creation of the State  
17 Bar Court system four decades ago, the California Supreme Court has never ruled in  
18 favor of a lawyer challenging discipline.

19 50. Sanai has for several years represented Peyman Roshan, who is  
20 challenging his attorney discipline in state and federal court. Mr. Roshan defeated  
21 three-quarters of the charges against him but lost on certain charges. The California  
22 Department of Real Estate ("DRE") initiated a reciprocal discipline proceeding based  
23 on the discipline imposed by the California Supreme Court under Cal. Bus. and  
24 Profs. Code § 10177(f). *Accusation of Roshan* ("Beykpour"), H-12623 SF. In order to  
25 prevail, the DRE must demonstrate that the California Supreme Court, as the state  
26 licensing authority, explicitly imposed discipline "for acts that, if done by a real  
27 estate licensee, would be grounds for the suspension or revocation of a California real  
28 estate license". However, only some of the charges on which the State Bar won meet

that standard, and the California Supreme Court has held, when it denies review, it is only stating that it found at least one charge to be valid basis for the discipline; in Roshan's case, not all of the charges as to which the State Bar Court recommended discipline also constitute reciprocal grounds for DRE discipline. *In Re Rose*, 22 Cal.4th 430, 448 (2000). The DRE has refused to obtain the internal California Supreme Court express findings explaining which of the charges for which discipline was recommended were deemed valid. To protect Roshan's ability to mount a defense based on the explicit statutory elements for reciprocal discipline, on March 6, 2023 Sanai issued two subpoenas on the California Supreme Court for Roshan's disciplinary records in the California Supreme Court, which were served on March 8, 2023. This puts Sanai in direct litigation conflict with the judicial body currently deciding whether to suspend him. However, Sanai has no means to request disqualification of the presiding justices.

## **FIRST CAUSE OF ACTION**

### **RELIEF UNDER 42 U.S.C. §1983 (FACIAL)**

(By Plaintiff Sanai as Against Defendants and Does 1 through 10, inclusive)

51. Plaintiff hereby incorporates by this reference paragraphs 1 through 50 as if set forth in full.

52. In *Bracy, supra*, the United States Supreme Court held that where the facts of a judicial branch corruption are reasonably established, a defendant in the same court is entitled to obtain evidence to show that he has been subjected to unduly harsh treatment by the judicial branch as compared to those defendants or potential defendants who corrupted the judicial branch.

53. Sanai has sought the evidence in his own files to show the improper influence third parties have had in his prosecution. Judge Miles, who originally was assigned this case, ordered such documents to be produced, and when they were not,

1 he ordered issue and evidence sanctions that resulted in dismissal of six of the nine  
2 counts against Sanai. However, Sanai's efforts to obtain those documents under  
3 Judge Valenzuela have been denied.

4 54. Judge Valenzuela, like half of her colleagues, had some sort of  
5 relationship with Girardi, but she refuses to disclose the relationship or state she has  
6 no relationship, and instead contends that she has no "conflict of interest." However,  
7 the United States Supreme Court had held that there does not need to be a conflict of  
8 interest in a financial or other sense for a tribunal to be biased in the constitutional  
9 sense; it is sufficient for a judge's past to show evidence she would be "psychologically  
10 wedded" to a predisposition for bias. *See Williams v. Pennsylvania*, 579 U.S. \_\_\_, 136  
11 S. Ct. 1899 (2016).

12 55. Even though the documents in Sanai's own file have been ruled not to be  
13 privileged, he has been denied access to them by the OCTC's simple refusal to  
14 produce them and her willingness to lose two-thirds of its case to protect the  
15 information therein. The other files that Sanai would have to access to show  
16 compensating bias, which are the files regarding Girardi, will not be disclosed by the  
17 OCTC unless he is ordered to do so by a federal court.

18 56. Plaintiff Sanai's case presents a prima facie example of disparate  
19 treatment. That same year that the Judicial Council censured Sanai, the Ninth  
20 Circuit Court of Appeals issued a reprimand of a very different lawyer, Tom Girardi  
21 and suspended one of his legal co-venturers, Thomas Lack, for presenting fraudulent  
22 documents to the Court of Appeal. *See In Re Girardi*, 611 F. 3d 1027 (9th Cir. 2010).  
23 In this proceedings Girardi and Lack attempted to enforce a default judgment in  
24 Nicaragua against non-existent defendants with similar names to major  
25 corporations, Dole and Shell Chemical Co. The actual Dole company sought to  
26 intervene in the proceedings but was denied. Lack and Girardi presented fraudulent  
27 translations of the Nicaraguan judgment to attempt to have the nearly half a billion  
28

1 judgment enforced against both Dole and Shell.

2 57. In the sanctions proceedings, Girardi's defense was that he did not read  
3 the briefs or documents submitted to the Court of Appeals. The Ninth Circuit wrote  
4 that:

5 Girardi's practice of authorizing the Lack firm to sign his name on  
6 briefs that turned out to contain falsehoods may raise separate ethical  
7 questions, but with respect to the specific misrepresentations identified  
8 in the order to show cause, Girardi's proven conduct is at most  
9 reckless, and the recklessness inheres in his mode of practice, not in  
any specific action he took in the enforcement action or the appeal.

*In Re Girardi, supra*, at 1027

10 58. Despite this judicial indictment, the OCTC took no action against  
11 Girardi. Lack was also not disciplined; the Board of Trustees assigned investigation  
12 of the matter to an attorney who counted Girardi's firm and Lack's firm as clients,  
13 and who not surprisingly found that, with respect to Lack, there was no improper  
14 intent, notwithstanding the findings of four federal judges that there were. Nor did  
15 the OCTC take actions on dozens of complaints against Girardi for failing to pay over  
16 money to his clients addressed by the Bar.

17 59. Sanai has a due process right to an impartial tribunal in the actual  
18 constitutional sense, and, under *Bracy*, the right to obtain information relevant to  
19 that issue. The State Bar Court and the California Supreme Court have denied  
20 Sanai the right to obtain such information as to both the State Bar Court and the  
21 California Supreme Court. This denial violates Sanai's right to due process. Because  
22 this is an issue that relates to question of whether the California Supreme Court is  
23 biased in the constitutional sense, *Younger* abstention does not apply. *Gibson v.*  
24 *Berryhill* (1973) 411 U.S. 564. Perhaps more important, there is no *Younger*  
25 abstention because the defendants have explicitly contended, and the state courts  
26 have ruled, that Sanai has no right to obtain evidence necessary to show  
27 constitutional bias under *Bracy*. *See Middlesex County Ethics Comm. v. Garden*  
28 *State Bar Assn* (1982) 457 U. S. 423, 432 (1982). There are no state court

1 procedures available to Sanai to vindicate his constitutional arguments, because he is  
2 not allowed the evidence in his file or to obtain discovery against the judicial branch.

3 60. The State Bar Court discovery procedures are less for a lawyer facing  
4 disciplinary charges than a defendant in either a civil case or criminal case in  
5 California. State Bar Court Valenzuela refused Sanai basic information necessary to  
6 prove his theory because there is no right to obtain such evidence, and she refused to  
7 exercise her discretion to provide it because she is in actuality biased against Sanai  
8 and any victim of judge/opposing counsel (unless the victim was Girardi and his  
9 cabal).

10 61. As to California appellate justices, the discovery procedures are non-  
11 existent. A litigant cannot initiate discovery against appellate judges or justices at  
12 the appellate level under California law, and there his no procedural mechanism to  
13 request recusal. If an appellate justice does recuse under circumstances that would  
14 suggest others justices should recuse, there is no means to discovery the reason for  
15 recusal and a request for disclosure will be denied. *See Los Angeles Times v. State*  
16 *Bar (Girardi)*, S269401 Order of December 12, 2022 denying motion for Justice  
17 Kruger to disclosure why she recused herself.

18 62. An additional reason that there is no *Younger* abstention is that these  
19 proceedings follow a pattern of bad faith harassment by the Chief Trial Counsel  
20 Lawrence. State Bar Court Judge Miles already determined that the State Bar filed  
21 one count against Sanai knowing it would lose, and let six others be dismissed  
22 instead of producing documents

23 63. There is no *Rooker-Feldman* issue applicable to a case that is ongoing,  
24 or where a party seek to compel disclosure of evidence, even if such disclosure might  
25 affect a court judgment. *Skinner v. Switzer* 562 U.S. 521 (2011).

26 64. Sanai is entitled to a temporary restraining order and preliminary  
27 injunction against conducting the remainder of his attorney discipline proceedings  
28 until the facts necessary to determine the nature and scope of bias that applies to

him and persons not related to Girardi, his firm, and his colleagues in other firms who continue to enjoy the fruits of his corruption of the State Bar, the State Bar Court and California Supreme Court. This Court should issue a permanent injunction, if a declaratory judgment is not available or recognized, ordering (a) all disciplinary proceedings against Sanai are enjoined; (b) the trial may only be re-opened in front of a new State Bar Court judge with Sanai entitled to have full discovery and witnesses that would be available in a civil trial, criminal trial, or both; (c) that the California Supreme Court's *Guerra* decision is unconstitutional and that a state court jurists statements and rulings may be entered as proof of bias; and (d) that the California Supreme Court's authority barring discovery against appellate justices and filing recusal motions is unconstitutional and no further proceedings may be conducted at the appellate level until such rights are acknowledged and codified by rule.

65. Sanai is entitled to a declaratory judgment against all defendants that:
  - a. under *Bracy*, Sanai and anyone similarly situated to him has the right to obtain documentary evidence and conduct depositions and have testify at trial members of the judicial branch regarding bias;
  - b. the California Supreme Court's holding in *Guerra, supra*, is unconstitutional and that the rulings and actions of a state court tribunal on their own may be used to prove actual bias or bias under the federal standard;
  - c. the State Bar Court Rules of Procedure are unconstitutional in that they do not provide for constitutionally adequate discovery and rights to call witnesses;
  - d. the California Supreme Court's authority barring discovery against appellate justices and filing recusal motions is unconstitutional and no further proceedings may be conducted at the appellate level until such rights are acknowledged and codified by rule; and

1 e. the prosecution of Sanai by OCTC was unconstitutional under *Bracy*.

2  
3 **SECOND CAUSE OF ACTION**

4 **EX PARTE YOUNG**

5 (By Plaintiff Sanai as Against Defendants and Does 1 through 10, inclusive)

6  
7 66. Plaintiff hereby incorporates by this reference paragraphs 1 through 50  
8 and 51 to 63 as if set forth in full.

9 67. The Ninth Circuit recognizes a common-law cause of action for  
10 injunctive relief against state-defendants in their official capacity. *Moore v.*  
11 *Urquhart*, 899 F.3d 1094, 1103 (9th Cir. 2018).

12 68. Plaintiff Sanai is entitled to a temporary restraining order and  
13 preliminary injunction against the Defendants conducting the remainder of his  
14 attorney discipline proceedings until the facts necessary to determine  
15 the nature and scope of bias that applies to him and persons not related to Girardi,  
16 his firm, and his colleagues in other firms who continue to enjoy the fruits of his  
17 corruption of the State Bar at the State Bar Court and California Supreme Court  
18 level. The Court should issue a permanent injunction ordering (a) all disciplinary  
19 proceedings against Sanai are enjoined; (b) the trial may only be re-opened in front  
20 of a new State Bar Court judge with Sanai entitled to have full discovery and  
21 witnesses that would be available in a civil trial, criminal trial, or both; (c) that the  
22 California Supreme Court's *Guerra* decision is unconstitutional and that a state court  
23 jurists statements and rulings may be entered as proof of bias; and (d) that the  
24 California Supreme Court's authority barring discovery against appellate justices  
25 and filing recusal motions is unconstitutional and no further proceedings may be  
26 conducted at the appellate level until such rights are acknowledged and codified by  
27 rule.

## DECLARATORY JUDGMENT

70. Plaintiff hereby incorporates by this reference paragraphs 1 through 50 and 51 to 63 as if set forth in full.

71. Plaintiff is entitled to a declaratory judgment against all defendants that:

- a. under *Bracy*, Sanai and anyone similarly situated to him has the right to obtain documentary evidence and conduct depositions and have testify at trial members of the judicial branch regarding bias;
- b. the California Supreme Court's holding in *Guerra, supra*, is unconstitutional and that the rulings and actions of a state court



tribunal on their own may be used to prove actual bias or bias under the federal standard;

- c. the California Supreme Court's authority barring discovery against appellate justices and filing recusal motions is unconstitutional and no further proceedings may be conducted at the appellate level until such rights are acknowledged and codified by rule; and
- d. the prosecution of Sanai by was unconstitutional under *Bracy*.

72. A declaratory judgment is a prerequisite to obtaining injunctive relief against state court judges where such a judgment can be obtained at first under 42 U.S.C. §1983, but not under the Ninth Circuit's *Ex Parte Young* remedy. Here, a declaratory judgment can be obtained. Accordingly Sanai seeks such a declaratory judgment alongside injunctive relief.

**WHEREFORE**, Plaintiff Cyrus Sanai respectfully demand the following relief on behalf of himself:

#### On the First Cause of Action

1. A temporary restraining order and preliminary injunction against Defendants conducting any discipline proceedings against Sanai until the facts necessary to determine the nature and scope of bias under *Bracy* that applies to him and persons not related to Thomas Girardi, his firm, and his colleagues in other firms who continue to enjoy the fruits of his corruption of the State Bar and California Supreme Court.

- 2. A declaratory judgment against all defendants that:

- a. under *Bracy*, Sanai and anyone similarly situated to him has the right to obtain documentary evidence and conduct depositions and have testify at trial members of the judicial branch regarding bias;
  - b. the California Supreme Court's holding in *Guerra, supra*, is unconstitutional and that the rulings and actions of a state court tribunal on their own may be used to prove actual bias or bias under the federal standard;
  - c. the State Bar Court Rules of Procedure are unconstitutional in that they do not provide for constitutionally adequate discovery and rights to call witnesses;
  - d. the California Supreme Court's authority barring discovery against appellate justices and filing recusal motions is unconstitutional and no further proceedings may be conducted at the appellate level until such rights are acknowledged and codified by rule; and
  - e. the prosecution of Sanai by was unconstitutional under *Bracy*.
3. Reasonable costs incurred and attorney fees.

### On the Second Cause of Action

1. A temporary restraining order and preliminary injunction against Defendants conducting any discipline proceedings against Sanai until the facts necessary to determine the nature and scope of bias under *Bracy* that applies to him and persons not related to Thomas Girardi, his firm, and his colleagues in other firms who continue to enjoy the fruits of his corruption of the State Bar and California Supreme Court.
2. A permanent injunction ordering (a) all disciplinary proceedings against Sanai are enjoined; (b) the trial may only be re-opened in front of a new

1 State Bar Court judge with Sanai entitled to have full discovery and witnesses that  
 2 would be available in a civil trial, criminal trial, or both; (c) that the California  
 3 Supreme Court's *Guerra* decision is unconstitutional and that a state court jurists  
 4 statements and rulings may be entered as proof of bias; and (d) that the California  
 5 Supreme Court's authority barring discovery against appellate justices and filing  
 6 recusal motions is unconstitutional and no further proceedings may be conducted at  
 7 the appellate level until such rights are acknowledged and codified by rule.

8  
 9 3. Reasonable costs incurred in this action.

10  
 11 On the Third Cause of Action

12 1. A declaratory judgment against all Defendants that:

- 13 a. under *Bracy*, Sanai and anyone similarly situated to him has the  
 14 right to obtain documentary evidence and conduct depositions  
 15 and have testify at trial members of the judicial branch regarding  
 16 bias;
- 17 b. the California Supreme Court's holding in *Guerra, supra*, is  
 18 unconstitutional and that the rulings and actions of a state court  
 19 tribunal on their own may be used to prove actual bias or bias  
 20 under the federal standard;
- 21 c. the State Bar Court Rules of Procedure are unconstitutional in  
 22 that they do not provide for constitutionally adequate discovery  
 23 and rights to call witnesses;
- 24 d. the California Supreme Court's authority barring discovery  
 25 against appellate justices and filing recusal motions is  
 26 unconstitutional and no further proceedings may be conducted at  
 27 the appellate level until such rights are acknowledged and  
 28 codified by rule; and

1 e. the prosecution of Sanai by the OCTC was unconstitutional  
2 under *Bracy*.

3 3. Reasonable costs incurred in this action.  
4

5 Dated: March 8, 2023  
6

7 By: /s/CYRUS SANAI  
8 SANAIS  
9 In pro per.  
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